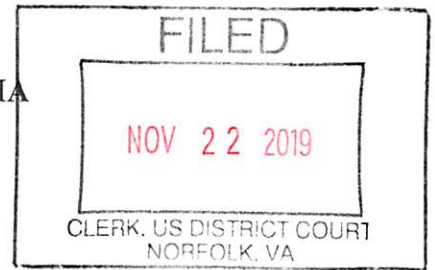


**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**



DAVID NELSON, #57354-037

Petitioner,

v.

CIVIL ACTION NO. 2:19cv112

MARK BOLSTER, Acting Warden,

Respondent.

DISMISSAL ORDER

Petitioner, a federal inmate, has submitted a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. The Petition alleges that Petitioner David Nelson ("Petitioner") was denied due process rights during disciplinary proceedings while housed at Federal Correctional Complex Petersburg, and denied due process as a result of Respondent's failure to provide him with a written copy of his DHO report. ECF No. 1

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Report and Recommendation filed October 29, 2019, recommends dismissal of the petition without prejudice. ECF No. 15. Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The parties were advised of their right to file written objections to the Report and Recommendation. Neither the Petitioner nor the Respondent filed objections with the Court and the time to do so has expired.

The Court, having reviewed the record and having made *de novo* findings, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation filed October 29, 2019.

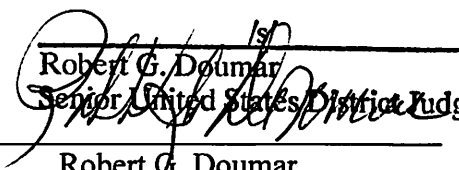
On August 30, 2019, in response to Respondent's Motion to Dismiss, Petitioner filed a Motion to Hold in Abeyance and/or Motion to Voluntarily Dismiss on the grounds that Petitioner received the DHO packet after filing the instant Petition, appealed to the Central Office, and is awaiting a ruling. ECF No. 12. Respondent filed a response and an Amended Response opposing holding the Petition in Abeyance but not opposing the voluntary dismissal of the Petition. ECF Nos. 13 and 14.

In light of Petitioner's unopposed request for dismissal, the U.S. Magistrate Judge recommended the Petitioner's Motion to Hold in Abeyance be Denied but his Motion to Voluntarily Dismiss by Granted. ECF No. 15. It is therefore, **ORDERED** that the petition be **DISMISSED WITHOUT PREJUDICE**.

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Dismissal Order by filing a *written* notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment.

The Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, and therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk shall forward a copy of this Dismissal Order to Petitioner and counsel of record  
for Respondent.

  
Robert G. Doumar  
Senior United States District Judge  
Robert G. Doumar  
United States District Judge

Norfolk, Virginia  
November 2, 2019